

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

JOEL WALLENDER,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Case No.: Case No. 3:05-cv-263-JKS

AFFIDAVIT OF SARAH ARMSTRONG

AFFIANT, being first duly sworn on oath, declares and says:

1. My name is Sarah Armstrong. I have personal knowledge of the facts stated in this affidavit.
2. Exhibit 1 is a true and correct copy of Contract No. DACA 85-01-C-0026 between the United States Army Corps of Engineers and Osborne Construction Company, produced by the U.S. Army Corps of Engineers.
3. Exhibit 2 is a true and correct copy of excerpted pages from Contract No. DACA 85-01-C-0026 between the U.S. Army Corps of Engineers and Osborne Construction Company.
4. Exhibit 3 is a true and correct copy of the U.S. Army Corps of Engineers ("USACE") Safety & Health Requirements Manual, otherwise known as EM 385-1-1, produced by the U.S. Army Corps of Engineers.

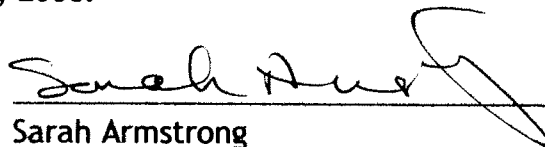
5. Exhibit 4 is a true and correct copy of excerpted pages from the U.S. Army Corps of Engineers ("USACE") Safety & Health Requirements Manual, otherwise known as EM 385-1-1.
6. Exhibit 5 is a true and correct copy of U.S. Army Corps of Engineers' reviewers' comments regarding the May and August 2002 safety plan submitted by Osborne Construction to the U.S. Army Corps of Engineers for their approval, produced by the U.S. Army Corps of Engineers at bates stamp ACE000306-312.
7. Exhibit 6 is a true and correct copy of U.S. Army Corps of Engineers' reviewers' e-mails regarding the May and August 2002 safety plan submitted by Osborne Construction to the U.S. Army Corps of Engineers for their approval, produced by the Army Corps of Engineers at bates stamp ACE000010-11 and 000017-19.
8. Exhibit 7 is a true and correct copy of a letter from the U.S. Army Corps of Engineers to Osborne Construction Company, dated August 16, 2002, produced by the U.S. Army Corps of Engineers.
9. Exhibit 8 is a true and correct copy of a letter from the U.S. Army Corps of Engineers to Tom Vasilatos of Osborne Construction Company, dated September 26, 2002, produced by the U.S. Army Corps of Engineers.
10. Exhibit 9 is a true and correct copy of conversation records between U.S. Army Corps of Engineers accident investigation officer Brian West and various witnesses to the events surrounding Joel Wallender's accident at the Fort Wainwright Housing Project on August 5, 2002.

11. Exhibit 10 is a true and correct copy of the March and August 2002 Fall Protection Safety Plans submitted by Osborne Construction Company to the U.S. Army Corps of Engineers for approval, produced by the U.S. Army Corps of Engineers at ACE000094-99 and ACE000609-615.
12. Exhibit 11 is a true and correct copy of the Alaska Department of Labor, Division of Occupational Safety and Health, Accident Investigation Report, dated September 16, 2002, produced by State of Alaska, Dept. of Labor and Workforce Development, pursuant to plaintiff's FOIA request.
13. Exhibit 12 is a true and correct copy of redacted notes regarding Joel Wallender's August 5, 2002, accident at the Fort Wainwright Housing Project, produced as redacted by the State of Alaska, Dept. of Labor and Workforce Development, pursuant to plaintiff's FOIA request.
14. Exhibit 13 is a true and correct copy of a Memorandum for CEPOA-DE (Col Perrenot) regarding Legal Review - AR 15-6 Investigation of Accident at Family Housing Project at Fort Wainwright, Alaska, dated November 4, 2002, produced by the U.S. Army Corps of Engineers at ACE000216-224.
15. Exhibit 14 is a true and correct copy of photographs of the accident site, produced by the U.S. Army Corps of Engineers at ACE 000641, 642, 648, 649, 656, 666, and 668.
16. Exhibit 15 is a true and correct copy of the U.S. Army Corps of Engineers Board of Investigation report dated September 2002, as produced to plaintiff in redacted form.

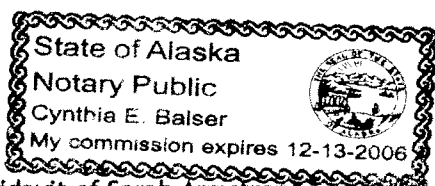
17. Exhibit 16 is a true and correct copy of a facsimile from Liberty Northwest to Cynthia Balser, dated July 17, 2003, regarding Joel Wallender's Life Care Plan.
18. Exhibit 17 is a true and correct copy of "Safety Lessons Learned" prepared by Dennis W. Mitchell of the U.S. Army Corps of Engineers, dated September 10, 2002.
19. Exhibit 18 is a true and correct copy of an e-mail from Dennis Mitchell to Trish Novak, dated September 6, 2002, and a fax cover sheet from Trish Novak to Dennis Mitchell dated September 6, 2002, produced by the U.S. Army Corps of Engineers at ACE000012-13.
20. Exhibit 19 is a true and correct copy of plaintiff's expert Frank Burg's preliminary expert report and opinions regarding the U.S. Army Corps of Engineers' actions with respect to safety at the Fort Wainwright construction site, dated October 23, 2006.
21. Exhibit 20 is a true and correct copy of plaintiff's expert Frank Burg's curriculum vitae.

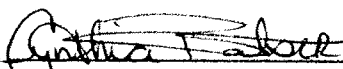
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 24th day of October, 2006.


Sarah Armstrong

SUBSCRIBED AND SWORN TO before me this 24th day of October, 2006.




Cynthia E. Balser
Notary Public
My Commission Expires: 12/13/06